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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,336	03/16/2007	Antonio Margheritis	Q95761	2794
23373	7590	12/08/2010	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			JACYNA J CASIMER	
			ART UNIT	PAPER NUMBER
			3754	
			NOTIFICATION DATE	DELIVERY MODE
			12/08/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/586,336

Applicant(s)

MARGHERITIS ET AL.

Examiner

J. Casimer Jacyna

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI.08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 2, 4, 5 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by VanBrocklin 5,108,013. VanBrocklin discloses a dispenser device including a pump with an actuator rod 36 and a piston 38, a fluid reservoir at 94, a fastener 16 that attaches to neck 114, a turret 18, a radial flange 104 that deforms at 115 (which is a top edge of the neck) after assembly as shown in figures 1 and 2 thereby forming a deformable radial flange as claimed, deformable sealing means projecting from the flange at 106, 108 and 109, with the flange 104 curving upwardly as claimed at 116, at the upward facing curve 110 and at the intersection of 104 and 109 which forms the inner radius that seals against 114, with the flange being deformed at the distal ends of 106, 108 and 109 as shown in figure 2 which are in contact with either the fastener 16 or the neck 113, 114 wherein the flange 104 is radially flat as claimed against the top edge of the neck 113, 114 in the area surrounding 115 with this radially flat portion being in between the top surface of the neck 113, 114 and the shoulder of the fastener 16 wherein, as discussed above, the deformable sealing means 106, 108, 109 are deformed at their distal ends after assembly with the radially flat flange being deformed at 115. In regard to claims 4 and 5, projections 106 and 108 are parallel at shown in figure 5 but 108 is deformed at its upper distal end and forms an angle extending toward 106 when assembled as shown in figures 1 and 2. In regard to claim 8, the turret 18 seals with the actuator rod 36 at 138. In regard to claims 10 and 11, the bottom surface of flange 104 forms a sealing zone with the neck at 115 and the upper

distal ends of 106 and 108 form two sealing zones with the fastener 16 with the turret flange 104 forming a third sealing zone with the fastener at the side of 109.

3. Claims 1, 2, 4, 6, 7 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Tada 3,897,006. Tada discloses a dispenser device including a pump with a piston 30, a fluid reservoir at 10, a fastener 20 that attaches to the neck 12 at 24, a turret 18, a radial flange 19 that deforms at 21 on a top edge of the neck 12 after assembly, the flange 19 curves upwardly as claimed at the upward facing or upwardly curved groove 20 is flat along 21 and is clamped between 17 and 12, and projecting sealing means as is the outer wall of 20 adjacent 16 and the inner wall 18 with projections being deformed by the insertion of 17. In regard to claim 2, fastener portion 17 is snapped into the groove above 19 thereby snap fastening the turret onto the reservoir neck. In regard to claims 6 and 7, 14 and 18 taper in or are cone shaped. In regard to claim 11, the bottom surface of flange 19 forms a sealing zone with the neck at 21 and the outer wall of 20 seals with the fastener 16, groove 20 seals with 17 and wall 18 seals with 14.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4, 5 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Pous 6,672,488 in view of Dutt 4,461,393. Pous discloses a dispenser device including a pump or valve at 14, a fluid reservoir at 3, a fastener 1 that

attaches to the neck 30 with a snap connection 108 (see claim 9), a turret which is a radial flange 4 that deforms at 35 on a top edge of the neck 30 after assembly substantially as claimed but does not disclose the flange to curve upward or have projecting sealing means. However, Dutt teaches another seal for a fastener 12 on a reservoir 38 having a curve that curves upwardly as claimed from 32 and 34 to an apex at 36 which is deformed when assembled as shown in figure 2 and projecting sealing means 24, 26, 28 which will deform when inserted into the grooves in 12 for the purpose of improving the sealing capability of the fastener. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the flange 4 of de Pous with a curved flange having projecting sealing means as, for example, taught by Dutt in order to improve the sealing capability of the fastener. In regard to claim 4, it is possible for the projections 24, 26 and 28 to be manufactured so as to be parallel before assembly.

6. Claims 1, 2, 4, 5 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durliat et al. 6,053,371 in view of Dutt 4,461,393. The embodiment of figures 1-5 of Durliat discloses a dispenser device including a pump with a piston 52 and a rod 50, a fluid reservoir that attaches at 38, a fastener 16 that attaches to the neck at 40, a turret 12 which deforms at 100 and can include deformable material as disclosed on column 2, line 66, to column 3, line 3, the turret has a snap connection 44 (see claim 2) that connects to the fastener 16 and a radial flange 36 substantially as claimed but does not disclose the flange to curve upward or have projecting sealing means. However, Dutt teaches another seal for a fastener 12 on a reservoir 38 having

a curve that curves upwardly as claimed from 32 and 34 to an apex at 36 which is deformed when assembled as shown in figure 2 and projecting sealing means 24, 26, 28 which will deform when inserted into the grooves in 12 for the purpose of improving the sealing capability of the fastener. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the flange 36 of Durliat with a curved flange having projecting sealing means as, for example, taught by Dutt in order to improve the sealing capability of the fastener. In regard to claim 4, it is possible for the projections 24, 26 and 28 to be manufactured so as to be parallel before assembly. In regard to claim 8, portion 100 of the turret seals against the actuator rod 50.

7. Applicant's arguments filed 10/28/2010 have been fully considered but they are not persuasive. Claims 1 and 10 are product by process claims wherein Applicant is contending the flange is curved before assembly and after the process of assembly is flat. However, as noted in MPEP 2113, only the final apparatus structure implied by the process steps has probative weight. The final structure is a deformable radial flange with deformed projections and a flat portion between a fastener and a reservoir neck and as explained in the rejections VanBrocklin discloses a turret seal that is flat at 104 has projections 106, 108 and 109 that also deform with the flat portion 104 located in between the fastener and the reservoir neck which is the final product as claimed. Whether or not the turret seal in VanBrocklin was curved at the onset of the assembly process does not preclude VanBrocklin from rejecting the claims because VanBrocklin discloses the final assembled product as claimed. Nevertheless, considering the

manner with which the curve is claimed, the VanBrocklin turret does have curved portions that are either upwardly oriented or have an upward curve that anticipate the claim language. Also, after assembly, the flat portion 104 of VanBrocklin is resting on top of and in contact with the reservoir neck with the end of the flat portion adjacent 109 being in contact with the side wall of the fastener 16.

Tada discloses a final structure that includes a flat flange 19 clamped between portion 17 of the fastener and the upper surface of the reservoir 12 neck. Nevertheless, a careful reading of claims 1 and 10 will show that they only define that the flange curves upward before assembly then, after assembly, is radially flat and in contact with the fastener and the neck. Before assembly Tada has a portion with an upward facing curve into which 17 is inserted which constitutes the curves upwards limitation as claimed and after assembly the flange 19 is clamped or deformed between 17 and 12 with the bottom surface of 19 being flat as claimed and pressed against the top surface of the neck. Thereby Tada anticipates the claims. The claims do not include the method step of flattening the curved portion. They only define a curved portion before assembly and state that the flange is flat after assembly and Tada does have the claimed structure. Also note that as defined in the specification, the completely flat portion includes two upwardly extending projections 46, 47 which also include an upwardly curved portion in between 46 and 47 which is still present after assembly. Therefore, as defined in the specification, the completely flattened portion 19 of Tada includes two projections which form the walls of the curved cavity into which 17 is inserted.

In accordance to MPEP 2113, Pous and Durliat teach the final claimed structure of a flat flange seal wherein there does not appear to be any structural difference between the claimed flat flange that exists in the finally assembled device and the flat flange seals in Pous and Durliat.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Mon. thru Fri. 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/
Primary Examiner, Art Unit 3754